



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT III

I.A. 5666/2024

In

C.P. No. (IB) 1499/MB/C-III/2017

*Under Regulation 45(3)(a) of the
Insolvency and Bankruptcy Board of
India (Liquidation Process) Regulations,
2016*

CA Kshitiz Gupta

*Liquidator of M/s Abhishek Corporation
Limited*

... Applicant/Liquidator

In the matter of

**Shri Karvir Nivasini Mahalaxmi Ispat
Private Limited**

... Operational Creditor

Vs

Abhishek Corporation Limited

... Corporate Debtor

Order pronounced on: 04.02.2025

Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati (Technical)

Appearances:

For the Liquidator

: Adv. Pulkit Sharma a/w Adv. Naveli
Reshamwalla a/w Adv. Princi Jaiswal i/b
Dhir and Dhir Associates



Per: Ms. Lakshmi Gurung, Member (Judicial)

ORDER

1. This I.A. is filed by CA Kshitiz Gupta, the Liquidator of Abhishek Corporation Limited (**Corporate Debtor**) under Regulation 45(3)(a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (**IBBI Liquidation Regulations**) seeking following reliefs:
 - a. *To allow the present application filed with respect to closure of the liquidation process period of the Corporate Debtor as a going concern;*
 - b. *To take on record Final Report in compliance with Regulation 45(3) of the Liquidation Regulations;*
 - c. *To take on record compliance certificate in Form-H in compliance of Regulation 45(3) of the Liquidation Regulations, 2016;*
 - d. *Pending the final hearing and disposal of the present application, this Tribunal to exempt the Liquidator from filing any further progress reports on the quarterly basis in terms of the Regulation 15 of the Liquidation Regulation; and*
 - e. *Pass any other/further order(s) as this Tribunal may deem fit and appropriate in the facts of the present case.*

Commencement of CIRP

2. This Tribunal vide order dated 17.11.2017 in CP(IB)/1499/2017 initiated Corporate Insolvency Resolution Process (**CIRP**) of Abhishek Corporation Limited (**Corporate Debtor**) and Mr. Sandeep Singhal was appointed as the Interim Resolution Professional (**IRP**). Subsequently, Mr. Sameer Kakar was appointed as the RP vide order dated 08.03.2018.



Initiation of Liquidation Process

3. In absence of any resolution plan approved by CoC, the RP filed MA no. 887/2018 seeking liquidation of the Corporate Debtor. The Tribunal vide order dated 11.03.2019 passed order for liquidation of the Corporate Debtor and Mr. Ashish Mukund Chandak was appointed as the Liquidator. As Mr. Chandak failed to take charge of the Corporate Debtor, consequently, CA Kshitiz Gupta (**Applicant**) was appointed as the Liquidator of the Corporate Debtor vide order dated 02.04.2019.
4. Pursuant thereto, the Applicant/Liquidator made public announcement on 13.04.2019 in Form B of Schedule 2 of the IBBI (liquidation Process) Regulations, 2016, thereby inviting claims from the stakeholders to submit their claims on or before 08.05.2019. The public announcement was made in the following newspapers:
 - i) Financial Express (*English*)
 - ii) Navshakti (*Marathi*)

Appeal against the Liquidation Order

5. An appeal bearing no. Company Appeal (AT) (Ins) No. 241/2019 was filed by one M/s ManiBhadra Polycot challenging the liquidation order dated 11.03.2019. The said appeal was allowed by Hon'ble NCLAT vide order dated 01.05.2019. Thus, the custody and control of the Corporate Debtor went back to the erstwhile RP.
6. Aggrieved by the same, State Bank of India, one of the financial creditors of the Corporate Debtor, filed Civil Appeal Nos. 4392-4393 of 2019 before the Hon'ble Supreme Court. The Civil Appeal was allowed by Hon'ble Supreme Court vide order dated 09.08.2019 and Liquidation process of the Corporate Debtor was reinstated. Subsequently, the Applicant resumed charge as the Liquidator of the Corporate Debtor from 21.08.2019.

**List of Stakeholders**

7. The Applicant/Liquidator once again made a public announcement on 21.08.2019 by way of an addendum to Form B initially published on 13.04.2019 and the last date for submission of claims was fixed as 05.09.2021.
8. The Liquidator prepared the list of stakeholders and constituted the Stakeholders Committee (**SCC**) in accordance with Regulation 31A of the IBBI (liquidation Process) Regulations, 2016. The list of stakeholders was filed before the Adjudicating Authority on 11.10.2019.
9. The list of stakeholders of the Corporate Debtor consisted of the following:

Sr. No.	Stakeholder Category	Claim Received		Claim Admitted (Amount in Rs.)
		Count	Value	
1	Secured Financial Creditors	7	871,17,00,923	871,17,00,923
2	Unsecured Financial Creditors	4	26,26,45,452	26,21,46,742
3	Workmen and Employees	3	1,58,67,556	1,58,67,556
4	Operational Creditors	10	63,25,94,379	63,25,94,379
5	Other Stakeholder	5	62,53,207	61,12,602
	Total	29	9,62,90,61,517	9,62,84,22,203

Assets of the Corporate Debtor

10. The Liquidation Estate of the Corporate Debtor consisted of the following:
- Land Building and other civil structures at Gat No. 148 and 149, Vil Tamgaon, Kholapur;
 - Plant and Machinery at Gat No. 148 and 149, Vil Tamgaon, Kholapur;
 - Non-current investment and Long Term Deposit and Advances;
 - Inventory from RM, WIP, Spares; and
 - Cash and Cash Equivalents and Receivables from Revenue Authorities.

**Valuation of the Corporate Debtor**

11. The Valuation of the Corporate Debtor was done in accordance with the Code and applicable Regulations. The Liquidator appointed two valuers, namely, Adroit Technical Services Pvt. Ltd. and Crest Capital Advisors, who submitted their respective valuation reports on 14.12.2017 and 20.12.2017 respectively. The summary of their valuations are given below:

Valuers	Fair Value (In Rupees)	Liquidation Value (In Rupees)
Adroit Technical Services Pvt. Ltd.	81,53,77,428	43,27,23,238
Crest Capital Advisors	84,53,24,657	46,59,66,945
Average Value	83,03,51,043	44,93,45,092

12. It is submitted that since considerable time was consumed due to the events that had transpired during the CIRP/Liquidation process of the Corporate Debtor, a fresh valuation was conducted on 26.05.2023 which was taken on record vide order dated 12.09.2023. It is pertinent to mention here that as per the new Valuation Report, the estimated realizable value of the Corporate Debtor as a going concern is Rs. 40.05 crores.

Exploring Scheme of Arrangement and Compromise under section 230-232 of Companies Act

13. On 09.11.2019, the first auction notice was published. In the meantime, the Liquidator has filed IA 3935/2019 in Company Appeal (AT) (Ins) No. 1386/2019 against Asset Reconstruction Company (India) Limited & Ors. before the Hon'ble NCLAT seeking exclusion of 129 days from the liquidation period. While adjudicating the said application, the Hon'ble NCLAT vide order dated 02.12.2019, directed the Liquidator to invite schemes in terms of Section 230-232 of the Companies Act, 2013.



14. Accordingly, invitation to Scheme was published on 02.01.2020 and the last date for submission was 03.02.2020. However, no scheme was received and the Liquidator proceeded with the sale in terms of Regulation 32 of the Liquidation Regulations. This was communicated to the IBBI vide email dated 05.02.2020.

Sale of Corporate Debtor as a Going Concern

15. The Liquidator published e-auction notices dated 13.02.2020 and 16.03.2020 for selling the Corporate Debtor as a going concern as well as for the sale of assets of the Corporate Debtor, both on "As is where is" basis. However, the said auction was unsuccessful as no buyers came forward to purchase the Corporate Debtor. Thereafter, in March 2020, nation-wide lockdown was imposed due to the outbreak of Covid-19 pandemic. Subsequently, the third auction notice was published on 20.08.2020. It is to be noted that the Liquidator, with the concurrence of the secured financial creditors, reduced the reserve price by 10%.
16. Due to the ongoing pandemic, various extensions were granted for submission of bid and the last date was fixed as 21.10.2020 and e-auction was scheduled to be conducted on 31.10.2020.

Stay by High Court

17. A Public Interest Litigation (PIL) was filed by one Mr. Uttam R. Mhetre before the Hon'ble Bombay High Court challenging the auction proceedings initiated by the Liquidator. The Hon'ble High Court vide order dated 28.10.2020 imposed a stay on the auction process till the final disposal of the PIL.
18. In the meantime, two prospective bidders submitted Expression of Interests (**EoI**) along with the Earnest Money Deposit (EMD). However, since stay was imposed by Hon'ble High Court, one of the two prospective bidders desired to withdraw from the process and sought refund of its



EMD vide email dated 29.10.2020. Pursuant to the withdrawal, only one prospective bidder i.e. M/s Mahalaxmi Textile was left.

19. The stay imposed on 28.10.2020 continued until 25.04.2023 on which date the Hon'ble High Court had dismissed the PIL and vacated the stay.

Resumption of the Auction Process

20. After the disposal of the PIL, the Liquidator conducted meeting on 11.05.2023 of all the Secured Financial Creditors and it was decided that a fresh valuation of the Corporate Debtor and its assets should be conducted. Accordingly, fresh valuation was conducted. As regards the auction process, the majority of members of the Stakeholders Consultation Committee opined that the auction sale process with the existing bidder should be continued.
21. Accordingly, the Liquidator filed application no. 4145/2023 placing on record the new valuation reports and also prayed to allow the Liquidator to continue the sale process with the existing bidder. The said application was allowed vide order dated 12.09.2023.

Completion of Sale of Corporate Debtor as a going concern

22. The Liquidator conducted the e-auction on 13.09.2023 and sold the Corporate Debtor as a going concern to the existing bidder i.e. M/s Mahalaxmi Textile (**Successful Bidder**). The successful bidder paid the entire sale consideration of Rs. 40,45,00,000/- with interest @12% to the Liquidator in the following installments:

Date	NEFT/RTGS Ref. Number	Remarks	Amount Received
27.10.2020	Cheque Nos. 000001 & 000002	EMD Amount	4,05,00,000
18.09.2023	Through RTGS	HDFCR52023091888554177	6,06,25,000



11.12.2023	Through RTGS	HDFCR52023121160997874	9,00,00,000
11.12.2023	Through RTGS	HDFCR52023121161026183	9,00,00,000
11.12.2023	Through RTGS	HDFCR52023121161167449	9,00,00,000
11.12.2023	Through RTGS	HDFCR52023121161060400	3,93,60,006/-
Total			41,04,85,006

23. It is to be noted that the Liquidator filed IA/4446/2023 seeking approval of this Tribunal for sale of Corporate Debtor as a 'going concern'. Further, the Successful Bidder filed IA/4554/2023 seeking certain reliefs and concessions for the sale of the Corporate Debtor. Both the applications were disposed of by a common order dated 25.01.2024. Thereafter, the Liquidator issued a Sale Certificate dated 11.03.2024.

Liquidator Fees

24. The Liquidator filed IA/632/2023 on 04.01.2023 seeking appropriate orders/directions to fix the remuneration of the Applicant as the Liquidator of the Corporate Debtor on the ground that while passing the liquidation order dated 11.03.2019, the Liquidator's fees was not fixed by this Tribunal. The said IA/632/2023 was allowed vide order dated 17.04.2024 and this Tribunal held that remuneration of the Liquidator shall be as per Regulation 4 of IBBI (Liquidation Process) Regulations, 2016 after considering the period specifically excluded by NCLT/NCLAT and further, deemed it appropriate to remunerate the Liquidator @ Rs. 75,000/- per month during the excluded period.

Distribution of sale proceeds

25. It is submitted by the Applicant that Regulation 42(2) of the Liquidation Regulations requires the Liquidator to distribute the sale proceeds within a period of 90(days) from the date of receipt of the sale consideration. The total sale consideration was received by 11.12.2023, however, the Liquidator was unable to distribute the sale proceeds within the specified time limit due to the pendency of the following two applications:



- i. IA/4446/2023 seeking approval for sale of Corporate Debtor as a going concern which was disposed of on 25.01.2024; and
- ii. IA/632/2023 seeking determination of Liquidator's fees which was disposed of on 17.04.2024.

26. Further, it is also submitted that the Liquidator faced certain difficulties with respect to the payment of Provident Fund, the dues pertaining to period from 2011 to 2017, around which the entire systems with respect to payment of Provident Fund underwent several changes. In view thereof, several communications were made with the concerned authorities and various visits were also made to the PF Office to ascertain the current method of payment. Subsequently, various procedural issues arose in the payment process since the department had shifted the employee identification from PF number to UIN number, physical payments to online payments, etc. Thereby, the said process took some time causing substantial delay. However, subsequently the issue was resolved and payments were made to the concerned authorities by the Applicant.

27. The amount was distributed under section 53 of IBC amongst the stakeholders. The details of distribution made to the stakeholders is as under: -

Section 53(1)	Stakeholders under section 53(1)	Amount Claimed (in Rupees)	Amount Admitted (in Rupees)	Amount Distributed (in Rupees)	%
(a)	CIRP Costs*	--	--	--	--
(a)	Liquidation Costs**	--	--	1,62,02,267	100%
(b)(i)	Workmen Dues	1,31,21,387	1,31,21,387	1,11,82,043	85.22%
(b)(ii)	Secured Financial Creditors	8,71,17,00,921	8,71,17,00,922	35,98,06,656	4.13%
(c)	Employees Dues***	27,46,169	27,46,169	19,26,814	70.16%
(d)	Unsecured Financial Creditors	26,26,45,452	26,21,46,742	Nil	0%



(e)(i)	Government Dues****	16,00,74,682	16,00,74,682	2,13,67,220	13.35%
(e)(ii)	Other Financial Creditors	-	-	-	-
(f)	Operational Creditors	47,25,19,697	47,25,19,697	Nil	0%
(g)	Preferential Shareholders	-	-	-	-
(h)	Equity Shareholders	62,53,207	61,12,602	Nil	0%
	Total	9,62,90,61,515	9,62,84,22,2021	41,04,85,000	

* No outstanding CIRP costs as on Liquidation Commencement date

**As the Corporate Debtor was sold as a going concern, distribution from realized proceeds from the sale of Corporate Debtor has been taken into account. All other costs were met from the revenue of the Corporate Debtor in regular course of business.

***Gratuity and PF payments

****Payment of EPFO dues

Liquidation Timeline & Exclusions/Extensions

28. It is submitted that before the 2019 amendment, as per Regulation 44 of the Liquidation Regulations, the time-period to complete the liquidation process is 2(two) years from the date of initiation of the liquidation process. The 2019 amendment to the Liquidation Regulations modified the time-period from 2 years to 1 year. However, since in the present case, liquidation was commenced on 11.03.2019, the 2019 Amendment would not be applicable in terms of the IBBI Notification dated 25.07.2019 which states that *“in relation to the liquidation processes commenced prior to the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019, the requirements of this regulation as existing before such commencement, shall apply.”* Thus, the liquidation timeline in the present case is 2 (two) years.
29. It is submitted that in view of the various facts and circumstances as already stated above, the Liquidator had sought the following exclusions which were accordingly granted by this Tribunal:



Sr. No.	Application No.	Exclusion	Reason	Date of Order of Tribunal	Revised last date of CIRP/ Liquidation
1	MA 3158/2019	100 days from the date of Liquidation order i.e. 11.03.2019	Interim stay on liquidation proceedings by Hon'ble NCLAT and subsequent vacation of the stay by Hon'ble Supreme Court	14.10.2019	18.06.2021
2	IA 2498/2021	504 days	On account of Covid-19 and stay on auction proceeding by Hon'ble Bombay High Court	27.10.2021	04.11.2022
3	IA 62/2023	428 days	Continuing covid-19 and stay on auction proceeding	24.01.2023	06.01.2024
4	IA 62/2023	Further exclusion of 138 days	Continuing stay on auction proceeding	24.01.2023	23.05.2024
5	IA 2914/2024	128 days	Pendency of IA/4446/ 2023 seeking approval for sale of CD as a going concern and IA/632/ 2023 seeking determination of liquidator fees	21.08.2024	28.09.2024

Filing of Necessary Reports

30. The Liquidator intimated the Registrar of Companies (RoC) about the initiation of Liquidation Process of the Corporate Debtor and submitted INC-28 with the RoC.



31. The Liquidator had filed the Preliminary Report and the Asset Memorandum Report on 11.10.2019 under Regulation 12 and Regulation 34(4), respectively, of the Liquidation Regulations.
32. We note that in compliance with Regulation 36 of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator prepared and issued an Asset Sale Report and the same was filed on 27.09.2024.
33. Further, in compliance with Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator filed Quarterly Progress Reports. The details of the progress reports are as follows:

Progress Report	Period	Date of filing
1 st	For Quarter ended on 30.09.2019	14.10.2019
2 nd	01.10.2019 – 30.12.2019	15.01.2020
3 rd	01.01.2020 – 30.06.2020	05.10.2020
4 th	01.07.2020 – 30.09.2020	15.10.2020
5 th	01.10.2020 – 31.12.2020	15.01.2021
6 th	01.01.2021 – 31.03.2021	15.04.2021
7 th	01.04.2021 – 30.06.2021	12.07.2021
8 th	01.07.2021 – 30.09.2021	12.10.2021
9 th	01.10.2021 – 31.12.2021	10.01.2022
10 th	01.01.2022 – 31.03.2022	15.04.2022
11 th	01.04.2022 – 30.06.2022	15.07.2022
12 th	01.07.2022 – 30.09.2022	15.12.2022
13 th	01.10.2022 – 31.12.2022	13.01.2023
14 th	01.01.2023 – 31.03.2023	15.04.2023
15 th	01.04.2023 – 30.06.2023	13.07.2023
16 th	01.07.2023 – 30.09.2023	13.10.2023
17 th	01.10.2023 – 31.12.2023	15.01.2024
18 th	01.01.2024 – 31.03.2024	15.04.2024
19 th	01.04.2024 – 30.06.2024	12.07.2024

34. It is submitted that the Liquidator has also updated the audited Financial Statements of the Corporate Debtor. Thus, the books and accounts and Audited Financial Statements for the Financial Years 2019-20, 2020-21, 2021-22, 2022-23 & 2023-24 have been maintained and updated by the Liquidator on behalf of the Corporate Debtor.



35. The Final Report as per Regulation 45 of the IBBI Liquidation Regulations, 2016 is submitted by the Liquidator along with this Application. Further, the compliance certificate in Form H filed under Regulation 45(3) of the said Liquidation Regulation is also annexed to this Application.

Completion of Liquidation Process of the Corporate Debtor

36. The Liquidator had opened a Liquidation Account bearing no. 50200023159047 with HDFC Bank. Thereafter, a dedicated bank account bearing no. 04350200001352 was opened on 09.03.2021 with the Bank of Baroda for depositing and distribution of the sale proceeds. The Statement of Receipts and Payments of the Corporate Debtor from the period 01.04.2020 till 27.09.2024 is annexed to the Application. It is submitted that the receipt and payment account has been prepared on the basis of bank account maintained In HDFC Bank (For Operations) and Bank of Baroda (sale proceeds) by the Liquidator. The HDFC Bank account was handed over to the successful bidder and thereby have not been part of the above receipt payment statement for the F.Y. 2024-25.
37. It is seen from the Statement of Payments and Receipts that closing balance as on 27.09.2024 is Rs. 7,24,462/-. The Liquidator submits that this sum has been reserved in the Liquidation Bank Account in order to meet the miscellaneous expenses that may occur during the closure of the liquidation process. It is submitted that in the event of any balance of the said Reserved Amount, the same shall be distributed amongst the stakeholders of the Corporate Debtor as per Section 53 of the Code.
38. It is also submitted that no PUFEE transactions were determined by the Liquidator/stakeholders and hence, no such applications are pending before this Tribunal.



FINDINGS

39. Heard the Counsel for the Liquidator and perused the records.
40. From the perusal of the Application along with the final report and the Compliance Certificate filed in Form-H by the Liquidator, it is seen that the Corporate Debtor has been successfully sold as a going concern to M/s Mahalaxmi Textile, the successful bidder. The Liquidator issued a Letter of Intent dated 13.09.2023 and thereafter, a Memorandum of Understanding dated 27.09.2023 was entered into between the Liquidator and the successful bidder for the sale of Corporate Debtor as a going concern in the manner and upon the terms and conditions more particularly stated therein.
41. The application no. 4554/2023 was filed by the Successful Bidder seeking reliefs and concessions for sale of the Corporate Debtor as a going concern which application was disposed of vide order dated 25.01.2024. Pursuant thereto, Sale Certificate dated 11.03.2024 was issued by the Liquidator in favor of the Successful Bidder. Accordingly, the present application has been moved under Regulation 45(3)(a) for closure of the liquidation process of the Corporate Debtor.
42. During the hearing on 06.12.2024, queries were raised by this Tribunal about the information relating to gratuity and PF payments to employees, unrelated employees, dues of EPFO Department and the distribution as per sections 52 and 53 of the Code. To clarify the same, an additional affidavit dated 21.12.2024 was filed by the Liquidator submitting as follows:

Amount distributed towards Workmen dues

- i. Workers have submitted a total claim of Rs. 1,31,21,387/- which includes Provident Fund dues amounting to Rs. 53,41,890/- and Gratuity dues amounting to Rs. 77,97,497/-. It is submitted that initially, the Liquidator admitted the entire claim amount of the Workers. Subsequently, Employees Provident Fund Organisation



(EPFO) also submitted its claim on 08.11.2023 for a sum of Rs. 2,33,27,028/-. Upon receiving the claim from EPFO, the Liquidator came to know that for the period of September 2013 to August 2014 and October 2017 there was an overlap between the claims submitted by the Workmen and EPFO for a sum of Rs. 19,39,344/-. This overlapping claim of Rs. 19,39,344/- was admitted by the Applicant in the claim form submitted by the EPFO and this overlapping claim amount was set aside from the claim amount of the Workmen dues at the time of the distribution of the sale proceeds. The breakup of the claim amount of the Workmen dues claimed, admitted and distributed are as follows:

Particulars	Amount admitted (INR)	Breakup		Deductions	Balance paid (INR)	% of amount paid
		PF (INR)	Gratuity (INR)	Overlapping period (INR)		
Workmen dues	1,31,21,387	53,41,890	77,79,497	19,39,344	1,11,82,043	85.22%

Amount distributed towards Government Dues- PF Department

- ii. The claim received from the government department including EPFO is as follows:

Sr. No.	Particulars	Amount (In Rs.)
1	Assistant Commissioner of Central Goods and Service Tax	4,47,94,736
2	Assistant Commissioner of Income Tax	11,43,42,760
3	Profession Tax	9,37,186
	Sub-Total	16,00,74,682
4.	EPFO	2,33,27,028
		18,34,01,710

- iii. It is submitted that due to a clerical error, the total claim amount received is shown as Rs. 16,00,74,682/- in the Final Report instead of Rs. 18,34,01,710/-. In view thereof, the revised numbers are provided and the Applicant prays that the same be considered:



Sr. No.	Stakeholders under section 53(1)	Amount Claimed (in Rupees)	Amount Admitted (in Rupees)	Amount Distributed (in Rupees)	%
8	(e) (ii)				
	EPFO Dues*	2,33,27,028	2,15,77,638	2,13,67,220	99.02%
	Government Dues (Other than EPFO)	16,00,74,682	16,00,74,682	Nil	0%
	Total Government Dues	18,34,01,710	18,16,52,320	2,13,67,320	11.77%

*EPFO dues paid in priority

iv. In view of the above, it is submitted that the government dues except the dues of EPFO will be paid as per waterfall mechanism under Section 53 of Code. The claim of the EPFO will stand outside the liquidation estate and hence will be paid in priority. The Liquidator further submits that after receiving the claim from EPFO, based on legal advice, all the EPFO claim amount was paid in priority, except the following:

- Short remittance of Rs. 17,49,390/- was not admitted due to lack of evidence,
- the recovery cost of Rs. 75,000/- was not paid in priority as no adjudication order or clarification was provided; and
- damage cost of Rs. 1,35,410/- was not paid since the same was adjudicated after the initiation of CIRP of the Corporate Debtor. Reliance is placed on Regional Provident Fund Commissioner vs Manish Kumar Bhagat & anr., Company Appeal (AT) (Ins) No. 808 of 2022.

Amounts distributed to unrelated employees

v. The claim amount towards Employees Dues is admitted for a sum of Rs. 27,46,169/- which includes Provident Fund dues of Rs. 6,09,876/-, gratuity dues of Rs. 13,16,918/- and salary of employees for a sum of Rs. 8,19,355/-. It is submitted that one Mr. Abhishek Annasaheb Mohite, being the Chief Financial Officer of the Corporate Debtor and the son of one of the Promoters of the Corporate Debtor,



has filed his Claim in Form E on 03.09.2019, for a sum Rs. 8,19,355/- against his salary which was pending from November 2017 to March 2019. The said claim submitted by Mr. Mohite is arising for the payment towards salary and is also under the category of a related party under the section 5 (24) of the Code, and therefore, any distribution of dues to Mr. Mohite will be done in terms of the waterfall mechanism set out in Section 53 of the Code.

- vi. In view of the aforesaid, under the heading of the Employees dues at Serial 4 (c) (4) of the distribution table, the dues of the employees which are part or provident fund and gratuity i.e. Rs. 19,26,814/- have been paid in priority. Since the sale proceeds has been distributed as per waterfall mechanism upto Section 53 (b) of the Code, the salary of Mr. Mohite which is also falling under the category of related party was not paid. The table herein below demonstrates the breakup of the claim amount of the Employees dues claimed, admitted and distributed: -

Particulars	Amount admitted (INR)	Breakup			Deductions Salary of Related Party	Balance paid (INR)	%
		PF (INR)	Gratuity (INR)	Salary of Related Party			
Employee dues (Total)	27,46,169	6,09,876	13,16,938	8,19,355	8,19,355	19,26,814	70.16%

43. Based on the clarification provided hereinabove, the Liquidator has provided the revised distribution table which is as follows:

Section 53(1)	Stakeholders under section 53(1)	Amount Claimed (in Rupees)	Amount Admitted (in Rupees)	Amount Distributed (in Rupees)	%
(a)	CIRP Costs*	--	--	--	--
(a)	Liquidation Costs**	--	--	1,62,02,267	100%
(b)(i)	Workmen Dues***	1,31,21,387	1,31,21,387	1,11,82,043	85.22%
(b)(ii)	Secured Financial Creditors	8,71,17,00,921	8,71,17,00,922	35,98,06,656	4.13%



(c)	Employees Dues****	27,46,169	27,46,169	19,26,814	70.16%
(d)	Unsecured Financial Creditors	26,26,45,452	26,21,46,742	Nil	0%
(e)(i)	EPFO Dues	2,33,27,028	2,15,77,638	2,13,67,220	99.02%
	Government Dues (other than EPFO)	16,00,74,682	16,00,74,682	Nil	0%
	Total Government Dues	18,34,01,710	18,16,52,320	2,13,67,220	11.77%
(e)(ii)	Other Financial Creditors	-	-	-	-
(f)	Operational Creditors	47,25,19,697	47,25,19,697	Nil	0%
(g)	Preferential Shareholders	-	-	-	-
(h)	Equity Shareholders	62,53,207	61,12,602	Nil	0%
	Total	9,62,90,61,515	9,62,84,22,2021	41,04,85,000	

* No outstanding CIRP costs as on Liquidation Commencement date

**As the Corporate Debtor was sold as a going concern, distribution from realized proceeds from the sale of Corporate Debtor has been taken into account. All other costs were met from the revenue of the Corporate Debtor in regular course of business.

***Gratuity and PF payments

****Gratuity and PF Payments to unrelated employees

44. The additional affidavit dated 21.12.2024 is taken on record.

45. For better clarity regarding the distribution of Workmen dues, Employees dues and Government dues (EPFO), the details are provided in the tabular form:

I. Workmen dues

Dues	Admitted Claim	Amount distributed	%	Remarks
PF	53,41,890	53,41,890	100%	
Gratuity	77,79,497	77,79,497	100%	



Dues for Overlapping period	19,39,344	--	--	The overlapping amount between the claims by the Workmen and EPFO has been admitted as EPFO claim and therefore, not paid herein
Total	1,31,21,387	1,11,82,043	85.22%	

II. Employees Dues

Particulars	Admitted claim	Amount distributed	%	Remarks
Unrelated	19,26,814	19,26,814	100%	
Related	8,19,355	--		Since Mr. Abhishek Annasaheb Mohite, being the son of one of the promoters of the CD, he is a related party and therefore distribution of dues will be done in accordance with section 53.
Total	27,46,169	19,26,814	70.16%	

III. EPFO claim

Particulars	Claim Amount	Admitted claim	Amount distributed	%	Remarks
PF & Gratuity	2,13,67,228	2,13,67,228	2,13,67,220	100%	This also includes the overlapping amount
Short Remittance	17,49,390	--	--		Not backed by evidence
Recovery Cost	75,000	75,000	--		No adjudication order or clarification was given
Damage Cost	1,35,410	1,35,410	--		Adjudicated after initiation of CIRP
Total	2,33,27,028	2,15,77,638	2,13,67,220	99.02%	

46. Having heard Ld. Counsel for the Liquidator and after perusing the documents including the additional affidavit, we are inclined to allow the



present application under Regulation 45(3)(a) of the Liquidation Regulations, 2016.

47. Accordingly, we hereby order closure of liquidation proceedings of the Corporate Debtor i.e. **Abhishek Corporation Limited** with the following directions:

- i) Liquidation proceedings of the Corporate Debtor stands closed from the date of this order.
- ii) The Liquidator, CA Kshitiz Gupta, is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor.
- iii) The Liquidator and the Registry are directed to forward a copy of this Order to the concerned authorities and the Registrar of Companies having jurisdiction and also to the IBBI, within 7 (seven) days from the date of receipt of this order, for further necessary action as prescribed under Law.

48. In the result, IA No. 5666 of 2024 is **allowed and stands disposed of** and C.P.(IB) – 1499 (MB)/2017 is hereby **closed**.

“Files to be consigned to records.”

Sd/-

Charanjeet Singh Gulati
Member (Technical)

Uma, LRA

Sd/-

Lakshmi Gurung
Member (Judicial)